

Appl. No. : 10/670,754
Filed : September 24, 2003

REMARKS

In the outstanding Office Action, the Examiner has rejected Claims 1-21. Claims 1-3, 5, 8, 10, 12-14, and 16-19 have been amended, and the claims have not been narrowed. No new matter has been added. Thus, Claims 1-21 are presented for further examination. Reconsideration and allowance of all Claims 1-21 in light of the present remarks is respectfully requested.

Discussion of Objections to the Specification

The disclosure was objected to for containing grammatical informalities. The specification, including the abstract, has been amended as outlined above according to the Examiner's suggestions. Accordingly, Applicant respectfully requests the objections to the specification be withdrawn.

Discussion of Objection to the Drawings

The drawings were objected to for non-compliance with 37 C.F.R. § 1.84(p)(3), which requires lettering to be "at 1/8 inch in height." Replacement sheets 9-14 are enclosed wherein Figures 10A-F have been amended to enlarge the height of the lettering. Applicant respectfully submits that the replacement drawings comply with 37 C.F.R. § 1.84(p)(3), and therefore Applicant requests the objection to the drawings be withdrawn.

Discussion of Objections to the Claims

The Examiner objected to Claims 1-3, 5, 8, 12, and 16 because of informalities. Claims 1-3, 5, 8, 12, and 16 have been amended as outlined above and suggested by the Examiner. Accordingly, Applicant respectfully requests the objections to the claims be withdrawn.

Discussion of Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected Claims 1-15 and 17-18 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In reference to Claim 1, the Examiner stated that if "the layer is 'released', it is ambiguous how the layer is 'removed from the surface' after a 'release.'" In regard to the terms

Appl. No. : 10/670,754
Filed : September 24, 2003

“release” and “remove”, the claims have been amended to replace the term “release” with the term “separate” in order to clarify that which is being claimed. Specifically, Applicant’s specification refers to the separation and removal of a layer or thin film, for example, at numbered paragraph [0023]. Applicant respectfully submits that the claims as amended with respect to the term “release” are not ambiguous.

The Examiner also pointed to antecedent basis problems in Claims 8, 10, 12, and 14. Claims 8, 10, 12, and 14 have been amended accordingly, and Applicant therefore respectfully requests the rejection of the claims for antecedent basis problems be withdrawn.

Claims 2, 3, 17, and 18 as examined recited that the fluorine ion concentration or current is “substantially constant over time”. The Examiner stated that “the *time* period during which the time-dependent current and concentration are ‘constant’ is not clear.” Claims 2 and 3 have been amended to recite that the fluorine ion concentration or current is substantially constant “during etching”, and Claims 17 and 18 have been amended to recite that the fluorine ion concentration or current is substantially constant “during the application of the time-dependent current.” Thus, Applicant respectfully submits that Claims 2, 3, 17, and 18 are clear with respect to the time period over which the fluorine ion concentration or current is substantially constant.

In view of the amendments outlined and discussed above, Applicant respectfully requests the rejection of the claims under 35 U.S.C. § 112, second paragraph, be withdrawn.

Discussion of Claim Rejections Under 35 U.S.C. § 102(a) and 103(a)

The Examiner has rejected Claims 1-6 and 16-20 under 35 U.S.C. § 102(a) as anticipated by Solanki, et al., “Thin Monocrystalline Silicon Films for Solar Cells” regarding “free-standing PS films” that correspond to “released porous layers” in applicant’s claimed methodology. The Examiner has also rejected Claims 7 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Solanki, et al. in view of U.S. Patent No. 3,936,328.

Enclosed is a declaration of the inventor under 37 C.F.R. § 1.132, establishing that Mr. Solanki is the sole-inventor of the invention claimed in the present application and that the “Thin Monocrystalline Silicone Films ...” publication describes the inventor’s own work. Specifically, the co-authors of the publication, R. R. Bilyalof, G. Beaucarne, and J. Poortmans, were members of Mr. Solanki’s research team and/or supervisors, and were therefore listed as co-authors of the publication because of such professional relationships. Applicant respectfully submits that the

Appl. No. : 10/670,754
Filed : September 24, 2003

enclosed declaration is sufficient to remove the publication as a reference under 35 U.S.C. § 102(a). *See In re Katz*, 687 F.2d 450, 215 U.S.P.Q. 14 (CCPA 1982).

Thus, with the removal of the Solanki publication as a reference under 35 U.S.C. § 102(a), and accordingly under 35 U.S.C. § 103(a), Applicant respectfully submits that Claims 1-7 and 16-21 are in condition for allowance.

Discussion of Double Patenting Rejection

The Examiner has rejected Claims 1 and 4 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 7 of U.S. Patent No. 6,649,485. Enclosed is a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) showing that the '485 patent is commonly owned with the present application. Thus, Applicant respectfully requests the rejection of Claims 1 and 4 under the judicially created doctrine of obviousness-type double patenting be withdrawn.

Applicant notes that the filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991). The filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection.

Allowable Subject Matter

The Examiner stated that "Claims 8 and 12 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, 2nd paragraph, ... as well as the objections to informalities." Applicant respectfully submits that Claims 8 and 12 have been amended to overcome the rejections under 35 U.S.C. § 112, second paragraph, and objections to informalities raised by the Examiner, and that these claims are therefore in condition for allowance.

The Examiner also stated that Claims 9-11 and 13-15 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph, and objections, and to include all of the limitations of the base claim and any intervening claims. Because Claims 9-11 and 13-15 depend from Claims 8 and 12, pursuant to 35 U.S.C. § 112, ¶ 4, they incorporate by reference all the limitations of the claim to which they refer. It is therefore submitted that these claims are

Appl. No. : 10/670,754
Filed : September 24, 2003

in condition for allowance at least for the reasons expressed with respect to the independent claim, and for their other features.

Conclusion

Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims for patentability purposes pursuant to statutory section 112, the reasons therefore, and arguments in support of the patentability of the pending claim set are presented above. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

3/8/05

By: _____

John M. Carson
Registration No. 34,303
Attorney of Record
Customer No. 20,995
(619) 235-8550

Appl. No. : **10/670,754**
Filed : **September 24, 2003**

AMENDMENTS TO THE DRAWINGS

Replacement drawings sheets 9-14 are attached and include changes to Figures 10A-F, wherein the text in each of the Figures 10A-F has been enlarged.